

Response to Official Action
Application No. 10/797,282
Page 16

Amendments to the Drawings:

No amendments are made to the Drawings herein.

REMARKS

By the foregoing Amendment, Claims 1, 14, 29, 41 and 62 are amended and Claims 9, 10, 15, 36, 37, 45 and 46 are cancelled. Entry of the Amendment and favorable consideration thereof is earnestly requested.

All claims stand rejected either under 35 U.S.C. § 102 as being anticipated by Abrams et al. (U.S. Patent No. 5,673,691) and/or Mault et al. (U.S. Patent No. 6,513,532) which incorporates by reference Mault (U.S. Patent No. 6,478,736), or under 35 U.S.C. §103 as being unpatentable over Mault et al. which incorporates by reference Mault and further in view of Kolawa et al. (U.S. Patent No. 6,370,513) or Abrams et al. Applicant respectfully asks the Examiner to reconsider these rejections in view of the above Amendments and the below Remarks.

The present invention is directed to a weight control software system and method may provide an interactive software environment to a user via a network to enhance the ability of users to follow a weight control program. The weight control software system may generate meal plans that are automatically updated based on an updated weight of the user following the weight control program. A variety of tools may be integrated into the weight control software system and be interoperable to utilize information entered by the user or generated by the system in controlling body weight of the user. Such tools may include varying meal plan types and varying schemes for generating meal plans.

Flexible Meal Planning

In one particular aspect of the invention, flexible meal planning is provided which allows users to save food “credits” to be consumed on some future day. These “credits” may be earned by eating less than allowed according to the food consumption goal, by exercising or by doing both. Thus for example, suppose that

a food consumption goal assigned to a person using the system is 20 nutritional units per day (it should be noted that some other value system, such as calories may be employed instead and that the "nutritional units" are used as an example only). The person may eat food totaling these 20 nutritional units worth of food every day to comply with the weight control program. However, if the person anticipates that on a particular day he/she will desire to consume more than the allotted 20 nutritional units worth of food, that person may eat less than the allotted 20 nutritional units worth of food on days preceding the particular day when more food is desired to be consumed. For example, suppose the person plans on attending a party on a Saturday. That person may consume 19 nutritional units worth of food on Monday through Friday of that week, thereby earning 5 nutritional units worth of "credit" such that on Saturday the person may consume 25 nutritional units worth of food and still be compliant with the weight control program. Similarly, credits may be earned by exercising. Thus, for example, rather than the person eating less than 20 nutritional units worth of food on Monday through Friday, the person may perform 1 nutritional unit worth of exercise on Monday through Friday, thereby earning 5 nutritional units worth of food which may be consumed on Saturday. Both of these techniques (i.e., eating less food than allowed and exercising) may, of course, also be combined.

Independent Claims 1, 29, 41 have been amended to highlight this novel aspect of the invention. More specifically, all of these claims require, among other limitations, the steps of (i) computing a total food value based on predetermined values associated with pre-established food combinations, (ii) receiving an activity performed by the participant and determining an activity value based on the received activity, (iii) computing a net total value based on the total food value and activity value, (iv) computing a difference value between the net total value and the daily food consumption goal, and (v) crediting the participant with the difference value for utilization of adjusting the daily food consumption goal of a future day.

Applicant respectfully submits that none of the prior art cited by the Examiner discloses, teaches or suggests these highlighted limitations.

Abrams et al. discloses a weight control apparatus which does include a behavioral adaptation routine which does adjust upcoming behavioral recommendations based upon currently observed behavior. It is disclosed, for example, that if the user eats a large lunch, the recommended dinner will contain fewer calories than if the user had eaten a lunch at the recommended calorie level; or if the user exercises a lot one day, the recommended dinner for that evening could allocate some additional calories. However, there is absolutely no disclosure, teaching or suggestion in Abrams et al. that the user may be credited with a value which may be used to adjust the daily food consumption goal of a future day as is required by amended Claims 1, 29, 41.

Mault discloses in Figure 8B and the corresponding text that the balance between calories burned in a day and calories consumed in a day may be calculated and displayed to the user so that the user may determine a rate of expected weight loss (i.e., the greater the balance, the faster the weight loss). However, nowhere does Mault disclose the calculation of a difference between the predetermined values associated with the pre-established food combinations in the meal plan plus an exercise value on the one hand and the daily food consumption value (i.e., the amount allowed to be consumed per day according to the plan) on the other in order to arrive at a “credit” value which may be used to adjust the daily food consumption goal of a future day as is required by amended Claims 1, 29, 41. If the balance between calories burned in a day and calories consumed in a day calculated by Mault was viewed as a “credit” to be applied in order to adjust the daily food consumption goal of a future day, no weight loss would ever be achieved, since the person would be consuming an amount of calories exactly equal to the amount of calories that person burned.

Applicant respectfully submits that neither Mault et al. nor Kolawa et al. disclose, teach or suggest anything which could even be argued to anticipate or render obvious the above-highlighted limitations in question.

Accommodation of Tailored Meal Planning Strategies

In another particular aspect of the invention, tailored meal planning strategies are accommodated. More specifically, as discussed in more detail in the Specification of the present application, there are generally two types of weight control users: (i) structured and (ii) non-structured users. The structured users typically want to know specific meals to eat that follow the general rules of the weight control program. To provide for the structured users, the meal planner of the present invention predetermines the meals for the user that meet the rules of the weight control program. The user may alter the planned meals by substituting the planned meals with other meals suggested by the meal planner. To provide for the non-structured users, the system of the present invention allows the user to create a customized meal plan by selecting and entering foods into the journal rather than following a meal plan prepared by the system. In order to accommodate both types of users, the system prompts the user to select whether he/she is a structured user or a non-structured user and then acts accordingly (see Figure 10 of the present application and accompanying text for more details concerning this aspect of the invention).

Claims 14 and 49 are specifically directed to this aspect of the invention, and require, among other elements, the steps of (i) receiving an indication from the participant of a user type indicative of whether the participant prefers a structured meal plan schedule or a non-structured meal plan schedule, and (ii) modifying the initial time-based plan, in response to user input, to accommodate the user type selected by the user. Claim 49 includes even more specific limitations requiring

that certain specific actions be taken by the system depending upon the selection of a user type received from the user.

All prior art of which Applicant is aware, including all references cited by the Examiner, employ either one of a structured meal planning scheme or a non-structured meal planning scheme if they employ a meal planning scheme at all. As such, none of the prior art discloses, teaches or suggests in any way receiving an indication from the participant of a user type indicative of whether the participant prefers a structured meal plan schedule or a non-structured meal plan schedule, and then modifying its meal planning approach accordingly.

More specifically, Abrams et al. discloses only a non-structured meal planning scheme in which the user must manually build a meal plan. Although Abrams et al. mentions “automatic” meal planning, such merely consists of allowing the user to repeat a prior week’s meals (which had been manually entered by the user), day by day, for the next two weeks. While this shortcut would reduce the amount of effort required on the part of the user, Applicant respectfully submits that this is still non-structured meal planning, and that nowhere does Abrams et al. disclose, teach or suggest receiving an indication from the participant of a user type indicative of whether the participant prefers a structured meal plan schedule or a non-structured meal plan schedule.

Moreover, Applicant respectfully submits that neither Mault nor Mault et al. discloses any type of meal planning functionality whatsoever. Rather, Mault and Mault et al. disclose systems which allow users to enter foods already consumed and perform calculations based thereon. Applicant notes that Mault et al. discloses some shortcuts for entering meals consumed. For example, Mault et al. discloses that the system may “learn” typical meals consumed at particular times and at particular locations such that these typical meals may be presented to the

user from which the user may choose. More specifically, the system may learn that if the user is at home at breakfast time, the breakfast consumed is likely either Breakfast A (bran flakes, skim milk and orange juice) or Breakfast B (grapefruit, bagel and skim milk), and may present these two choices to the user if he/she is located at home during breakfast. (see Figure 5 and accompanying text). The user may select one of these two options or enter a custom breakfast indicating what has been consumed. Mault similarly discloses that the user enters meals after they have been consumed, and that suggestions may be made for the user to eat certain foods as the user is prompted that it is time for a meal to be consumed. However, neither Mault nor Mault et al. disclose either a structured or a non-structured meal plan, and certainly do not disclose, teach or suggest in any way receiving an indication from the participant of a user type indicative of whether the participant prefers a structured meal plan schedule or a non-structured meal plan schedule.

Kolawa et al. is directed to an automated recommendation system which keeps track of the needs and preferences of the user through a user preference vector. Each field of the user preference vector represents the user's preference for a specific item attribute. Item attributes are defined by a systems programmer. The systems programmer also creates product vectors of items in the recommendation database. A user preference vector is compared against a product vector to determine if the product is suitable for recommendation. A recommended item may be purchased by the user by submitting a purchase request over a network connection. The user preference vector is constantly refined through feedback from the user about the recommended items. However, while it is disclosed that the recommendations may pertain to foods, there is no disclosure in Kolawa et al. of a structured or a non-structured meal plan, and certainly no disclosure, teaching or suggestion of receiving an indication from the

participant of a user type indicative of whether the participant prefers a structured meal plan schedule or a non-structured meal plan schedule.

Accommodation of Tailored Meal Plan Types

In another particular aspect of the invention, tailored meal plan types are accommodated. More specifically, as discussed in more detail in the Specification of the present application the system may request a desired meal plan type from the user. The desired meal plan types may include for example regular, higher-carbohydrate, higher-protein, and vegetarian. Each of these meal plan types has an associated percentage of carbohydrates, protein, fat, and fruits and vegetables that the user is prescribed to eat in the daily food consumption regimen.

Independent Claim 62 as amended, which is directed to this aspect of the invention requires, among other limitations, the steps of (i) receiving an indication from the participant indicative of a meal plan type desired by the participant, wherein each of the meal plan types has an associated percentage of at least one of carbohydrates, protein, fat, and fruits and vegetables that the user is prescribed to eat in the meal plan, and (ii) forming a meal plan schedule based on at least one component of the initial personal profile and upon the indication received from the participant the meal plan schedule being consistent with the daily food consumption goal and utilizing foods having values associated therewith.

Applicant respectfully submits that these highlighted elements are not disclosed, taught or suggested by any of the cited prior art references. More specifically, none of Abrams et al., Mault or Mault et al. makes any mention whatsoever of allowing a user to select a particular meal plan type which is then used to create a meal plan. Even when food suggestions are made to the user in any of the three prior art references, each appears to use a standard set of food consumption rules in determining which foods to suggest to the user, and none of them allow the user to select a meal plan type which would alter the rules. The

Response to Official Action
Application No. 10/797,282
Page 24

only specific portion of any of these references which even appears to relate to this issue is Figure 8C of Mault. However, what is shown in that Figure is simply nutrient targets which are suggested to the user. There is no indication that the user may alter any of these targets in a way which would cause Mault to create a meal plan aimed at meeting such specified targets.

With respect to Kolawa et al., while it is disclosed in Figure 19 and the corresponding text thereof that a user may choose a particular diet, there is no indication that any of these choices has associated therewith a percentage of at least one of carbohydrates, protein, fat, and fruits and vegetables that the user is prescribed to eat and that such values are used to construct a meal plan, the meal plan schedule being consistent with the daily food consumption goal. Rather, as discussed above, Kolawa et al. is merely concerned with providing suggestions of foods (among other items) which it calculates that a user will like based upon user preferences.

For the foregoing reasons, Applicant respectfully submits that all pending claims, namely Claims 1-8, 11-14, 16-35, 38-44 and 47-75, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,



Wesley W. Whitmyer, Jr., Reg. No. 33,558
Todd M. Oberdick, Reg. No. 44,268
Steven B. Simonis, Reg. No. 54,449
ST. ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, Connecticut 06905-5619
(203) 324-6155
Attorneys for Applicant